

**4-19CV-953-0** **VERDICT FORMS****QUESTION NO. 1**

Did the negligence, if any, of the person or entity named below proximately cause the occurrence in question?

With respect to the empty spa on the premises, 24 Hour Fitness was negligent if:

1. the empty spa posed an unreasonable risk of harm, and
2. 24 Hour Fitness knew or reasonably should have known of the danger, and
3. 24 Hour Fitness failed to exercise ordinary care to protect Harold Sauls from the danger, by both failing to warn Harold Sauls of the empty spa and failing to make the unattended empty spa reasonably safe.

“Ordinary care,” when used with respect to the conduct of 24 Hour Fitness as an owner or occupier of a premises, means that degree of care that would be used by an owner or occupier of ordinary produce under the same or similar circumstances.

“Proximate cause” means a cause that was a substantial factor in bringing about an occurrence, and without which cause such occurrence would have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the occurrence, or some similar occurrence, might reasonably result therefrom. There may be more than one proximate cause of an occurrence.

“Negligence” means, with respect to Harold Sauls, failure to use ordinary care; that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

The “occurrence in question” means the occurrence on April 18, 2018, in which Harold Sauls fell into the empty spa at 24 Hour Fitness’ Keller SuperSport Gym, which is the subject of this lawsuit.

Answer “Yes” or “No” for each of the following:

24 HOUR FITNESS

YES

HAROLD SAULS

YES

QUESTION NO. 2

If you answered "Yes" to Question 1 for more than one of those named, then answer the following question. Otherwise, do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the injury. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to any one is not necessarily measured by the number of acts or omissions found. The percentage attributable to anyone need not be the same percentage attributed to that one in answering another question.

For each person or entity you found caused or contributed to causing the injury, find the percentage of responsibility attributable to each:

24 Hour Fitness 90 %

Harold Sauls 10 %

Total 100 %

QUESTION NO. 3

If you answered "Yes" to Question 1 regarding 24 Hour Fitness, then answer the following question. Otherwise, do not answer the following question.

What amount of money, if paid now in cash, would fairly and reasonably compensate Harold Sauls for his injuries, if any, that resulted from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss, if any. Do not include interest on any amount of damages you find.

Answer separately, in dollars and cents, for damages, if any.

1. Physical pain sustained in the past.

Answer: \$200,000

2. Physical pain that, in reasonable probability, Harold Sauls will sustain in the future.

Answer: \$350,000

3. Mental anguish sustained in the past.

Answer: \$200,000

4. Mental anguish that, in reasonable probability, Harold Sauls will sustain in the future.

Answer: \$100,000

5. Disfigurement sustained in the past.

Answer: \$0.00

6. Physical impairment sustained in the past.

Answer: \$100,000

7. Physical impairment that, in reasonable probability, Harold Sauls will sustain in the future.

Answer: \$50,000

8. Medical care expenses in the past.

Answer: \$35,505.28

9. Medical care expenses that, in reasonable probability, Harold Sauls will incur in the future.

Answer: \$400,000

QUESTION NO. 4

If you answered "Yes" to Question 1 regarding 24 Hour Fitness, then answer the following question. Otherwise, do not answer the following question.

What sum of money, if paid now in cash, would fairly and reasonably compensate Linda Sauls for injuries, if any, to her husband Harold Sauls, that resulted from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss, if any. Do not include interest on any amount of damages you find.

Answer separately, in dollars and cents, for damages, if any.

1. Loss of household services sustained in the past. "Household services" means the performance of household and domestic duties by a spouse to the marriage.

Answer: \$18,000

2. Loss of household services that, in reasonable probability, Linda Sauls will sustain in the future.

Answer: \$36,000

3. Loss of consortium sustained in the past. "Consortium" means the mutual right of the husband and wife to that affection, solace, comfort, companionship, society, assistance, sexual relations, emotional support, love, and felicity necessary to a successful marriage.

Answer: \$9,000

4. Loss of consortium that, in reasonable probability, Linda Sauls will sustain in the future.

Answer: \$18,000

QUESTION NO. 5

Answer the following question only if you answered “Yes” to Question 1 regarding 24 Hour Fitness. Otherwise, do not answer the following question.

Do you find by clear and convincing evidence that the harm to Harold Sauls resulted from gross negligence?

“Clear and convincing evidence” means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.

“Gross negligence” means an act or omission by 24 Hour Fitness,

1. that, when viewed objectively from the standpoint of 24 Hour Fitness at the time of its occurrence, involves an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and
2. of which 24 Hour Fitness has actual, subjective awareness of the risk involved, but nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others.

Answer “Yes” or “No.”

Answer: No

QUESTION NO. 6

Answer the following question only if you answered “Yes” to Question No. 5 regarding 24 Hour Fitness. Otherwise, do not answer the following question.

What sum of money, if any, should be assessed against 24 Hour Fitness and awarded to Harold Sauls and Linda Sauls as exemplary damages for the conduct found in Question No. 5?

“Exemplary damages” means any damages awarded as a penalty or by way of punishment but not for compensatory purposes. Exemplary damages include punitive damages.

Factors to consider in awarding exemplary damages, if any, are:

1. The nature of the wrong.
2. The character of the conduct involved.
3. The degree of culpability of the wrongdoer.
4. The situation and sensibilities of the parties concerned.
5. The extent to which such conduct offends a public sense of justice and propriety.
6. The net worth of 24 Hour Fitness.

Answer in dollars and cents, if any.

Answer: _____

QUESTION NO. 7

Answer the following question only if you answered "Yes" to Question No. 5 regarding 24 Hour Fitness. Otherwise, do not answer the following question.

How do you apportion the exemplary damages between Harold Sauls and Linda Sauls? Answer by stating a percentage for each person named below. The percentages you find must total 100 percent.

Harold Sauls 50 %

Linda Sauls 50 %

Total 100 %

REDACTED

Jury Foreperson

11.09.2021

Date